

SECOND REGULAR SESSION

SENATE BILL NO. 817

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time January 25, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4681L.011

AN ACT

To repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to the Missouri homestead preservation act.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 137.106, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 137.106, to read as follows:

137.106. 1. This section [may] **shall** be known and may be cited as "The
2 Missouri Homestead Preservation Act".

3 2. As used in this section, the following terms shall mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of revenue;

6 (3) "Disabled", as such term is defined in section 135.010, RSMo;

7 (4) "Eligible owner", any individual owner of property who is sixty-five
8 years old or older as of January first of the tax year in which the individual is
9 claiming the credit or who is disabled, and who had an income of equal to or less
10 than the maximum upper limit in the year prior to completing an application
11 pursuant to this section; or

12 (a) In the case of a married couple owning property either jointly or as
13 tenants by the entirety, or where only one spouse owns the property, such couple
14 shall be considered an eligible taxpayer if both spouses have reached the age of
15 sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years
16 old and the other spouse is at least sixty years old, and the combined income of
17 the couple in the year prior to completing an application pursuant to this section
18 did not exceed the maximum upper limit; or

19 (b) In the case of joint ownership by unmarried persons or ownership by

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 tenancy in common by two or more unmarried persons, such owners shall be
21 considered an eligible owner if each person with an ownership interest
22 individually satisfies the eligibility requirements for an individual eligible owner
23 under this section and the combined income of all individuals with an interest in
24 the property is equal to or less than the maximum upper limit in the year prior
25 to completing an application under this section. If any individual with an
26 ownership interest in the property fails to satisfy the eligibility requirements of
27 an individual eligible owner or if the combined income of all individuals with
28 interest in the property exceeds the maximum upper limit, then all individuals
29 with an ownership interest in such property shall be deemed ineligible owners
30 regardless of such other individual's ability to individually meet the eligibility
31 requirements; or

32 (c) In the case of property held in trust, the eligible owner and recipient
33 of the tax credit shall be the trust itself provided the previous owner of the
34 homestead or the previous owner's spouse: is the settlor of the trust with respect
35 to the homestead; currently resides in such homestead; and but for the transfer
36 of such property would have satisfied the age, ownership, and maximum upper
37 limit requirements for income as defined in subdivisions (7) and (8) of this
38 subsection;

39 No individual shall be an eligible owner if the individual has not paid [their] **the**
40 **individual's** property tax liability, if any, in full by the payment due date in any
41 of the three prior tax years, except that a late payment of a property tax liability
42 in any prior year shall not disqualify a potential eligible owner if such owner paid
43 in full the tax liability and any and all penalties, additions and interest that
44 arose as a result of such late payment; no individual shall be an eligible owner
45 if such person filed a valid claim for the senior citizens property tax relief credit
46 pursuant to sections 135.010 to 135.035, RSMo;

47 (5) "Homestead", as such term is defined pursuant to section 135.010,
48 RSMo, except as limited by provisions of this section to the contrary. No property
49 shall be considered a homestead if such property was improved since the most
50 recent annual assessment by more than five percent of the prior year appraised
51 value, except where an eligible owner of the property has made such
52 improvements to accommodate a disabled person;

53 (6) "Homestead exemption limit", a percentage increase, rounded to the
54 nearest hundredth of a percent, which shall be equal to the percentage increase
55 to tax liability, not including improvements, of a homestead from one tax year to
56 the next that exceeds a certain percentage set pursuant to subsection 10 of this
57 section. For applications filed in 2005 or 2006, the homestead exemption limit

58 shall be based on the increase to tax liability from 2004 to 2005. For applications
59 filed between April 1, 2005, and September 30, 2006, an eligible owner, who
60 otherwise satisfied the requirements of this section, shall not apply for the
61 homestead exemption credit more than once during such period. For applications
62 filed after 2006, the homestead exemption limit shall be based on the increase to
63 tax liability from two years prior to application to the year immediately prior to
64 application. For applications filed between December 31, 2008, and December 31,
65 2011, the homestead exemption limit shall be based on the increase in tax
66 liability from the base year to the year prior to the application year. For
67 applications filed on or after January 1, 2012, the homestead exemption limit
68 shall be based on the increase to tax liability from two years prior to application
69 to the year immediately prior to application. For purposes of this subdivision, the
70 term "base year" means the year prior to the first year in which the eligible
71 owner's application was approved, or 2006, whichever is later;

72 (7) "Income", federal adjusted gross income, and in the case of ownership
73 of the homestead by trust, the income of the settlor applicant shall be imputed
74 to the income of the trust for purposes of determining eligibility with regards to
75 the maximum upper limit;

76 (8) "Maximum upper limit", in the calendar year 2005, the income sum of
77 seventy thousand dollars; in each successive calendar year this amount shall be
78 raised by the incremental increase in the general price level, as defined pursuant
79 to article X, section 17 of the Missouri Constitution.

80 3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in
81 the prior tax year, the property tax liability on any parcel of subclass (1) real
82 property increased by more than the homestead exemption limit, without regard
83 for any prior credit received due to the provisions of this section, then any eligible
84 owner of the property shall receive a homestead exemption credit to be applied
85 in the current tax year property tax liability to offset the prior year increase to
86 tax liability that exceeds the homestead exemption limit, except as eligibility for
87 the credit is limited by the provisions of this section. The amount of the credit
88 shall be listed separately on each taxpayer's tax bill for the current tax year, or
89 on a document enclosed with the taxpayer's bill. The homestead exemption credit
90 shall not affect the process of setting the tax rate as required pursuant to article
91 X, section 22 of the Constitution of Missouri and section 137.073 in any prior,
92 current, or subsequent tax year.

93 4. If application is made in 2005, any potential eligible owner may apply
94 for the homestead exemption credit by completing an application through their
95 local assessor's office. Applications may be completed between April first and

September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- (1) To the applicant's age;
- (2) That the applicant's prior year income was less than the maximum upper limit;
- (3) To the address of the homestead property; and
- (4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value. The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. If application is made in 2005, the assessor, upon request for an application, shall:

- (1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;
- (2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks for inclusion on the form;
- (3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and
- (4) Sign the application, certifying the accuracy of the assessor's entries.

6. If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed between April first and October fifteenth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- 134 (1) To the applicant's age;
- 135 (2) That the applicant's prior year income was less than the maximum
- 136 upper limit;
- 137 (3) To the address of the homestead property;
- 138 (4) That any improvements made to the homestead, not made to
- 139 accommodate a disabled person, did not total more than five percent of the prior
- 140 year appraised value[; and].

141 [(5)]

142 The applicant shall also include with the application copies of receipts indicating

143 payment of property tax by the applicant for the homestead property for the three

144 prior tax years.

145 7. Each applicant shall send the application to the department by October

146 fifteenth of each year for the taxpayer to be eligible for the homestead exemption

147 credit in the tax year next following the calendar year in which the application

148 was completed.

149 8. If application is made in 2005, upon receipt of the applications, the

150 department shall calculate the tax liability, adjusted to exclude new construction

151 or improvements, verify compliance with the maximum income limit, verify the

152 age of the applicants, and make adjustments to these numbers as necessary on

153 the applications. The department also shall disallow any application where the

154 applicant has also filed a valid application for the senior citizens property tax

155 credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax

156 liability, age, and income are verified, the director shall determine eligibility for

157 the credit, and provide a list of all verified eligible owners to the county collectors

158 or county clerks in counties with a township form of government by December

159 fifteenth of each year. By January fifteenth, the county collectors or county

160 clerks in counties with a township form of government shall provide a list to the

161 department of any verified eligible owners who failed to pay the property tax due

162 for the tax year that ended immediately prior. Such eligible owners shall be

163 disqualified from receiving the credit in the current tax year.

164 9. If application is made after 2005, upon receipt of the applications, the

165 department shall calculate the tax liability, verify compliance with the maximum

166 income limit, verify the age of the applicants, and make adjustments to these

167 numbers as necessary on the applications. The department also shall disallow

168 any application where the applicant also has filed a valid application for the

169 senior citizens property tax credit under sections 135.010 to 135.035,

170 RSMo. Once adjusted tax liability, age, and income are verified, the director shall

171 determine eligibility for the credit and provide a list of all verified eligible owners

172 to the county assessors or county clerks in counties with a township form of
173 government by December fifteenth of each year. By January fifteenth, the county
174 assessors shall provide a list to the department of any verified eligible owners
175 who made improvements not for accommodation of a disability to the homestead
176 and the dollar amount of the assessed value of such improvements. If the dollar
177 amount of the assessed value of such improvements totaled more than five
178 percent of the prior year appraised value, such eligible owners shall be
179 disqualified from receiving the credit in the current tax year.

180 10. The director shall calculate the level of appropriation necessary to set
181 the homestead exemption limit at five percent when based on a year of general
182 reassessment or at two and one-half percent when based on a year without
183 general reassessment for the homesteads of all verified eligible owners, and
184 provide such calculation to the speaker of the house of representatives, the
185 president pro tempore of the senate, and the director of the office of budget and
186 planning in the office of administration by January thirty-first of each year.

187 11. For applications made in 2005, the general assembly shall make an
188 appropriation for the funding of the homestead exemption credit that is signed
189 by the governor, then the director shall, by July thirty-first of such year, set the
190 homestead exemption limit. The limit shall be a single, statewide percentage
191 increase to tax liability, rounded to the nearest hundredth of a percent, which, if
192 applied to all homesteads of verified eligible owners who applied for the
193 homestead exemption credit in the immediately prior tax year, would cause all
194 but one-quarter of one percent of the amount of the appropriation, minus any
195 withholding by the governor, to be distributed during that fiscal year. The
196 remaining one-quarter of one percent shall be distributed to the county
197 assessment funds of each county on a proportional basis, based on the number of
198 eligible owners in each county; such one-quarter percent distribution shall be
199 delineated in any such appropriation as a separate line item in the total
200 appropriation. If no appropriation is made by the general assembly during any
201 tax year or no funds are actually distributed pursuant to any appropriation
202 therefor, then no homestead preservation credit shall apply in such year.

203 12. After setting the homestead exemption limit for applications made in
204 2005, the director shall apply the limit to the homestead of each verified eligible
205 owner and calculate the credit to be associated with each verified eligible owner's
206 homestead, if any. The director shall send a list of those eligible owners who are
207 to receive the homestead exemption credit, including the amount of each credit,
208 the certified parcel number of the homestead, and the address of the homestead
209 property, to the county collectors or county clerks in counties with a township

210 form of government by August thirty-first. Pursuant to such calculation, the
211 director shall instruct the state treasurer as to how to distribute the
212 appropriation and assessment fund allocation to the county collector's funds of
213 each county or the treasurer ex officio collector's fund in counties with a township
214 form of government where recipients of the homestead exemption credit are
215 located, so as to exactly offset each homestead exemption credit being issued, plus
216 the one-quarter of one percent distribution for the county assessment funds. As
217 a result of the appropriation, in no case shall a political subdivision receive more
218 money than it would have received absent the provisions of this section plus the
219 one-quarter of one percent distribution for the county assessment funds. Funds,
220 at the direction of the county collector or the treasurer ex officio collector in
221 counties with a township form of government, shall be deposited in the county
222 collector's fund of a county or the treasurer ex officio collector's fund or may be
223 sent by mail to the collector of a county, or the treasurer ex officio collector in
224 counties with a township form of government, not later than October first in any
225 year a homestead exemption credit is appropriated as a result of this section and
226 shall be distributed as moneys in such funds are commonly distributed from other
227 property tax revenues by the collector of the county or the treasurer ex officio
228 collector of the county in counties with a township form of government, so as to
229 exactly offset each homestead exemption credit being issued. In counties with a
230 township form of government, the county clerk shall provide the treasurer ex
231 officio collector a summary of the homestead exemption credit for each township
232 for the purpose of distributing the total homestead exemption credit to each
233 township collector in a particular county.

234 13. If, in any given year after 2005, the general assembly shall make an
235 appropriation for the funding of the homestead exemption credit that is signed
236 by the governor, then the director shall determine the apportionment percentage
237 by equally apportioning the appropriation among all eligible applicants on a
238 percentage basis. If no appropriation is made by the general assembly during any
239 tax year or no funds are actually distributed pursuant to any appropriation
240 therefor, then no homestead preservation credit shall apply in such year.

241 14. After determining the apportionment percentage, the director shall
242 calculate the credit to be associated with each verified eligible owner's homestead,
243 if any. The director shall send a list of those eligible owners who are to receive
244 the homestead exemption credit, including the amount of each credit, the certified
245 parcel number of the homestead, and the address of the homestead property, to
246 the county collectors or county clerks in counties with a township form of
247 government by August thirty-first. Pursuant to such calculation, the director

248 shall instruct the state treasurer as to how to distribute the appropriation to the
249 county collector's fund of each county where recipients of the homestead
250 exemption credit are located, so as to exactly offset each homestead exemption
251 credit being issued. As a result of the appropriation, in no case shall a political
252 subdivision receive more money than it would have received absent the provisions
253 of this section. Funds, at the direction of the collector of the county or treasurer
254 ex officio collector in counties with a township form of government, shall be
255 deposited in the county collector's fund of a county or may be sent by mail to the
256 collector of a county, or treasurer ex officio collector in counties with a township
257 form of government, not later than October first in any year a homestead
258 exemption credit is appropriated as a result of this section and shall be
259 distributed as moneys in such funds are commonly distributed from other
260 property tax revenues by the collector of the county or the treasurer ex officio
261 collector of the county in counties with a township form of government, so as to
262 exactly offset each homestead exemption credit being issued.

263 15. The department shall promulgate rules for implementation of this
264 section. Any rule or portion of a rule, as that term is defined in section 536.010,
265 RSMo, that is created under the authority delegated in this section shall become
266 effective only if it complies with and is subject to all of the provisions of chapter
267 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
268 536, RSMo, are nonseverable and if any of the powers vested with the general
269 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
270 or to disapprove and annul a rule are subsequently held unconstitutional, then
271 the grant of rulemaking authority and any rule proposed or adopted after August
272 28, 2004, shall be invalid and void. Any rule promulgated by the department
273 shall in no way impact, affect, interrupt, or interfere with the performance of the
274 required statutory duties of any county elected official, more particularly
275 including the county collector when performing such duties as deemed necessary
276 for the distribution of any homestead appropriation and the distribution of all
277 other real and personal property taxes.

278 16. In the event that an eligible owner dies or transfers ownership of the
279 property after the homestead exemption limit has been set in any given year, but
280 prior to January first of the year in which the credit would otherwise be applied,
281 the credit shall be void and any corresponding moneys, pursuant to subsection 12
282 of this section, shall lapse to the state to be credited to the general revenue fund.
283 In the event the collector of the county or the treasurer ex officio collector of the
284 county in counties with a township form of government determines prior to
285 issuing the credit that the individual is not an eligible owner because the

286 individual did not pay the prior three years' property tax liability in full, the
287 credit shall be void and any corresponding moneys, under subsection 11 of this
288 section, shall lapse to the state to be credited to the general revenue fund.

289 17. This section shall apply to all tax years beginning on or after January
290 1, 2005. This subsection shall become effective June 28, 2004.

291 18. [In accordance with the provisions of sections 23.250 to 23.298, RSMo,
292 and unless otherwise authorized pursuant to section 23.253, RSMo:

293 (1) Any new program authorized under the provisions of this section shall
294 automatically sunset six years after the effective date of this section; and

295 (2) This section shall terminate on September first of the year following
296 the year in which any new program authorized under this section is sunset, and
297 the revisor of statutes shall designate such sections and this section in a revision
298 bill for repeal.] **Under section 23.253 of the Missouri sunset act:**

299 (1) **The provisions of the new program authorized under this**
300 **section shall automatically sunset six years after August 28, 2010,**
301 **unless reauthorized by an act of the general assembly; and**

302 (2) **If such program is reauthorized, the program authorized**
303 **under this section shall automatically sunset twelve years after August**
304 **28, 2010; and**

305 (3) **This section shall terminate on September first of the**
306 **calendar year immediately following the calendar year in which the**
307 **program authorized under this is sunset.**

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